

BEFORE THE IDAHO BOARD OF TAX APPEALS

IN THE MATTER OF THE APPEAL OF ROMAN)	APPEAL NO. 06-A-2012
CATHOLIC DIOCESE OF BOISE from the decision)	FINAL DECISION
of the Board of Equalization of Ada County for tax)	AND ORDER
year 2006.)	

CHARITABLE EXEMPTION APPEAL

THIS MATTER came on for hearing October 27, 2006, in Boise, Idaho, before Board Member Lyle R. Cobbs. Board Member David E. Kinghorn participated in this decision. Attorney Terry C. Copple and Finance Officer Patrick A. Crisler appeared for Appellant. Deputy Prosecutor Ray J. Chacko appeared for Respondent Ada County. This appeal is taken from a decision of the Ada County Board of Equalization (BOE) denying an exemption claim for taxing purposes of property described as Parcel No. R5456501650.

The issue on appeal is whether the subject property qualifies for an exemption from property taxes under Idaho Code § 63-602C, the charitable exemption.

The decision of the Ada County Board of Equalization is reversed.

FINDINGS OF FACT

The total assessed value for the subject parcel is \$487,900. Appellant requests a full exemption pursuant to the charitable exemption in Idaho Code § 63-602C. The connection of the religious exemption in § 63-602B with this appeal was briefly addressed, but further mention is not necessary to this decision.

The subject property is the offices and associated spaces of Catholic Charities of Idaho, Inc. (CCI), a ministry related to the Roman Catholic Diocese of Boise (CDB) and the Roman Catholic Church. CCI and CDB are distinct, not for profit corporations. The later is a charitable corporation and the first is a religious organization. Both entities have a stated purpose of providing charitable services to the public. The same individual, the Bishop, is the sole director

(President) of both. In one instance, Appellant aptly described it this way, CCI is “under the direct and exclusive control of the Catholic Diocese for the purpose of accomplishing the charitable activities for the Catholic Diocese.”

Appellant reported that constituent services are largely free and based on need alone. Some services are provided at a rather nominal cost on a sliding scale basis. Revenues from service recipients total about 10% of the annual cost of delivering services. The subject property provides a full range of CCI services. These include counseling, family support, senior services, immigration assistance, and youth development. Services are provided on a “need” basis and are substantially underwritten by private donations collected by the church. In another instance, CCI was described as the “social services arm of the church.”

Appellant provided numerous exhibits addressing ownership and use matters related to the appeal. Exhibit No. 12 was an August 2006 organizational chart showing a “lined” relationship between CCI and CDB (Appellant.)

Considerable information was shared regarding a written, unsigned lease arrangement between the two entities. Approximately \$2,500 per month changes hands. The Diocese collects the money as a form of cost sharing to recoup actual out of pocket costs the Diocese pays in connection with maintenance of the subject property. The “rental” rate was not derived from the marketplace. It was instead based on property costs the church covers on behalf of Catholic Charities who in turn address the costs from its own budget. In closing, it was stressed that the Supreme Court has repeatedly noted each charitable exemption case should be considered individually.

The County noted Appellant is officially recognized as a “religious corporation” which is not one of the owner-types (fraternal, benevolent or charitable corporation or society) listed in

the charitable exemption. The County holds only the religious exemption is open to a religious corporation. The County decision to deny exempt status also focused on the presence of the lease and associated payments being received by Appellant from the distinct legal entity CCI. The charitable exemption was argued to require such leased property be taxed. The lease is noted to encompass the entire property. Respondent's post hearing brief quotes the statute, thus "if any building or property belonging to any such corporation or society is leased by the such owner . . . then the same shall be assessed and taxed as any other property."

The County concludes under strict construction of the statute's terms, Appellant's lease of the property negates an exemption. Assuming for discussion the lease is non-commercial, this factor is said to be relevant only if the lease were for "athletic or recreational facilities, residence halls or dormitories, meeting rooms or halls, auditoriums or club rooms" as delineated in Idaho Code § 63-602C.

CONCLUSIONS OF LAW

This Board's goal in its hearings is the acquisition of sufficient, accurate evidence to support a determination of fair market value or exempt status. This Board, giving full opportunity for all arguments and having considered all testimony and documentary evidence submitted by the parties in support of their respective positions, hereby enters the following.

This exemption claim is made under the Idaho Code section below. Exemptions must be narrowly construed.

§ 63-602C. Property exempt from taxation -- Fraternal, benevolent, or charitable corporations or societies

The following property is exempt from taxation: property belonging to any fraternal, benevolent, or charitable corporation or society, the World War veteran organization buildings and memorials of this state, used exclusively for the purposes for which such corporation or society is organized; provided, that if any building or property belonging to any such corporation or society is leased by such

owner or if such corporation or society uses such property for business purposes from which a revenue is derived which, in the case of a charitable organization, is not directly related to the charitable purposes for which such charitable organization exists, then the same shall be assessed and taxed as any other property, and if any such property is leased in part or used in part by such corporation or society for such purposes the assessor shall determine the value of the entire building and the value of the part used or leased for commercial purposes. If the value of the part used for commercial purposes is determined to be three percent (3%) or less than the value of the entirety, the whole of said property shall remain exempt. If the value of the part used for commercial purposes is determined to be more than three percent (3%) of the value of the entirety, the assessor shall assess such proportionate part of such building including the value of the real estate as is so leased or used for such purposes, and shall assess the trade fixtures used in connection with the sale of all merchandise; provided however, that the lease or use of any property by any such corporation or society for athletic or recreational facilities, residence halls or dormitories, meeting rooms or halls, auditoriums or club rooms within the purposes for which such corporation or society is organized, shall not be deemed a business or commercial purpose, even though fees or charges be imposed and revenue derived therefrom.

The charitable exemption can be understood as having two components. One element is property ownership (*belonging to.*) The other factor is property use (*used exclusively.*) In application, the two criteria may overlap somewhat. The Idaho Supreme Court has set out eight (8) guidelines to be considered in exemption claims under § 63-602C.

- (1) the stated purposes of the corporation's undertaking
- (2) whether the corporation's functions are charitable
- (3) whether the organization is supported by donations
- (4) whether recipients of services are required to pay for assistance received
- (5) whether there is general public benefit
- (6) whether income received produces a profit
- (7) to whom the assets would go upon dissolution
- (8) whether the "charity" provided is based on need

The above considerations are not an exclusive list. Some factors may not apply in every case.

Appellant is a legal entity of the Roman Catholic Church. The Catholic Church has

extensive charitable activities involving dedicated individuals and property. The actions associated with the subject property include counseling, family support, senior services, immigration assistance, and youth development. Some individuals or households receiving services pay a small portion of the total cost of services on a sliding scale arrangement. Services are not restricted to church members, but open to all in the community based on need. Clearly, there is a general public benefit being received. No profit is derived by either Appellant or CCI from payments received and donations. CCI exists to further the church's mission, specifically in helping the poor and the hurting.

For apparently administrative reasons the church has formed a separate but related corporation to own and operate the subject property. The church retains ultimate control of the additional entity and covers all property maintenance expenses. Through a kind of "lease" arrangement respective property duties of the two corporations is spelled out. Appellant receives a regular "lease" payment from CCI as a cost sharing means. The rent payment was demonstrated to cover actual out-of-pocket property costs Appellant pays for and nothing more. The annual amount was derived for that purpose. There is not a bona fide rental agreement or market-related rental rate.

Appellant fairly characterized the above arrangement as the left hand putting money in the right hand. Both entities when separately considered are non-profit, donation supported, with virtually the same stated charitable purposes. However, the entities are not actually separate (at arm's-length.) To the contrary, CCI is a ministry arm (subsidiary) of the parent church organization (Appellant.) This is quite unlike the property sharing arrangement in *Student Loan Fund of Idaho, Inc. v. Payette County*, 138 Idaho 684, 69 P.3d 104 (2003.)

Should the owner (CDB) of subject property dissolve, the property would go to a like non-

profit organization “dedicated exclusively for public benefit purposes.”

The County fairly noted that Appellant/property owner is a different legal entity than CCI. But the analysis shouldn't have stopped there. CCI, a Catholic church corporation, is intricately interwoven with the parent church organization itself. Though the presence of a rental arrangement can negate an exemption grant under the charitable exemption, it is not automatic. Here a more functional description of the payments would be that of a cost sharing or accounting mechanism. The Appellant (the church) is effectively using the subject property to accomplish its charitable purposes. Though CDB is a religious corporation, it is significantly involved in charitable work particularly as it pertains to the subject property. The Board believes a property owned by a “religious” corporation can qualify for exempt status under a combination of exemption statutes or may do so strictly under the charitable exemption.

The subject property ownership and its current use qualify for a full exemption. The decision of the Ada County Board of Equalization will be reversed.

FINAL ORDER

In accordance with the foregoing Final Decision, IT IS ORDERED that the decision of the Ada County Board of Equalization concerning the subject parcel be, and the same hereby is, reversed fully exempting subject parcel for 2006.

IT IS FURTHER ORDERED that any taxes which have been paid in excess of those determined to have been due be refunded or applied against other *ad valorem* taxes due from Appellant.

DATED this 8th day of March , 2007.